IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 91 OF 2006

IN

SUIT NO. 652 OF 1998

M/s. Link Enterprises .. Plaintiff.

vs.

Red Robin Exports &

Industries Ltd., .. Defendants.

Mr. A.M. Vernakar i/by Narichania & Narichania

for the plaintiff.

Mr. N. K. mudnaney

for Defendants.

CORAM : S.U.KAMDAR, J.

DATE : 23rd January,2006.

P.C.

. By consent of the parties, Motion is made returnable forthwith.

2. The learned advocate appearing for the defendants states that he will deposit towards the decreetal amount the sum of Rs. 4 lacs within a period of six weeks from today and he will pay cost quantified at Rs. 15,000/- to the plaintiff herein.

In view of the aforesaid statement and in view of the averments made in the affidavit in support stating the reasons why they could not remained present before the Court on the date when the ex-parte decree dated 21.12.1998 was passed. I am of the view that the explanation be accepted. Ex-parte decree dated 21.12.1998 is set aside. In an event of deposit of the said amount of Rs. 4 lacs the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court. The cost of Rs. 15,000/- to be paid to the plaintiffs within two weeks. On beach of either conditions motion to stand dismissed. If the conditions are complied with then suit to stand restored.

3. The plaintiff will be at liberty to take out summons for judgment in the present suit and the summons for judgment will be heard on its own merit. Motion disposed of accordingly. On the defendants depositing the aforesaid amount and paying the cost, the attachment levied pursuant to the decree in execution will stand raised.